

By: Ellis

S.B. No. 476

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the payment of child support obligations on behalf of
3 persons wrongfully imprisoned.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 103.052, Civil Practice and Remedies
6 Code, is amended by amending Subsections (a) and (b) and adding
7 Subsection (d) to read as follows:

8 (a) A person who meets the requirements of Section 103.001
9 is entitled to:

10 (1) compensation in an amount equal to:

11 (A) [~~(1)~~] \$25,000 multiplied by the number of
12 years served in prison, expressed as a fraction to reflect partial
13 years, if the time served is less than 20 years; or

14 (B) [~~(2)~~] \$500,000 if the time served is 20 years
15 or more; and

16 (2) compensation for child support payments owed by
17 the person that became due and interest on child support arrearages
18 that accrued during the time served in prison but were not paid.

19 (b) A person who is owed an amount of compensation under
20 Subsection (a)(1) equal to or greater than \$50,000 shall be paid
21 that compensation in two equal annual installments.

22 (d) The amount of compensation under Subsection (a)(2) to
23 which a person is entitled shall be paid on the person's behalf in a
24 lump-sum payment to the state disbursement unit, as defined by

1 Section 101.0302, Family Code, for distribution to the obligee
2 under the child support order.

3 SECTION 2. Sections 103.105(a) and (c), Civil Practice and
4 Remedies Code, are amended to read as follows:

5 (a) If the trier of fact finds that the petitioner is
6 entitled to compensation, the petitioner is entitled to:

7 (1) expenses incurred by the petitioner in connection
8 with all associated criminal proceedings and appeals and in
9 connection with obtaining the petitioner's discharge from
10 imprisonment, including any fine or court costs paid and reasonable
11 attorney's fees, including reasonable attorney's fees for
12 prosecuting the lawsuit under this subchapter;

13 (2) wages, salary, or other earned income that was
14 lost as a direct result of the arrest, prosecution, conviction, or
15 wrongful imprisonment; ~~and~~

16 (3) medical and counseling expenses incurred by the
17 petitioner as a direct result of the arrest, prosecution,
18 conviction, or wrongful imprisonment; and

19 (4) child support payments owed by the petitioner that
20 became due and interest on child support arrearages that accrued
21 during the time served in prison but were not paid.

22 (c) Excluding the amount of child support payments and
23 interest on child support arrearages under Subsection (a)(4), total
24 ~~Total~~ damages assessed under this subchapter may not exceed
25 \$500,000.

26 SECTION 3. Sections 103.151(a) and (c), Civil Practice and
27 Remedies Code, are amended to read as follows:

1 (a) The comptroller shall make the first installment
2 payment due an applicant and the lump-sum payment, if any, to be
3 paid to the state disbursement unit, as defined by Section
4 101.0302, Family Code, under Subchapter B, to the extent that funds
5 are available and appropriated for that purpose, not later than the
6 30th day after the date the comptroller grants the application.

7 (c) If appropriated funds are insufficient to pay the amount
8 due an applicant and the amount to be paid to the state disbursement
9 unit, as defined by Section 101.0302, Family Code, money shall be
10 paid under the procedure described by Section 103.152.

11 SECTION 4. Section 103.152, Civil Practice and Remedies
12 Code, is amended to read as follows:

13 Sec. 103.152. PAYMENT OF COMPENSATION. (a) Not later than
14 November 1 of each even-numbered year, the comptroller shall
15 provide a list of claimants entitled to payment under Subchapter B
16 or C and the amounts due for each claimant to the governor, the
17 lieutenant governor, and the chair of the appropriate committee in
18 each house of the legislature so that the legislature may
19 appropriate the amount needed to pay the amount owed to each
20 claimant and the amount to be paid to the state disbursement unit,
21 as defined by Section 101.0302, Family Code, on the claimant's
22 behalf [~~the amount owed~~].

23 (b) Not later than September 1 of the year in which an
24 appropriation under this chapter has been made by the legislature,
25 the comptroller shall pay the required amount to each claimant and
26 the state disbursement unit, as defined by Section 101.0302, Family
27 Code.

1 (c) The amount of compensation awarded under Section
2 103.105(a)(4) must be paid on the claimant's behalf in a lump-sum
3 payment to the state disbursement unit, as defined by Section
4 101.0302, Family Code, for distribution to the obligee under the
5 child support order.

6 SECTION 5. Section 103.154, Civil Practice and Remedies
7 Code, is amended to read as follows:

8 Sec. 103.154. TERMINATION OF PAYMENTS. (a) Except as
9 provided by Subsection (c), compensation [~~Compensation~~] payments
10 to a person under this chapter terminate if, after the date the
11 person becomes eligible for compensation under Section 103.001, the
12 person is convicted of a crime punishable as a felony. Compensation
13 payments terminate under this subsection on the date of the
14 subsequent conviction.

15 (b) Except as provided by Subsection (c), compensation
16 [~~Compensation~~] payments to a person under this chapter terminate on
17 the date of the person's death. Any payments scheduled to be paid
18 after that date are credited to the state and may not be paid to any
19 other person, including the person's surviving spouse, heirs,
20 devisees, or beneficiaries under the person's will, or to the
21 person's estate.

22 (c) This section does not apply to compensation for child
23 support payments and interest on child support arrearages to be
24 paid on a person's behalf under this chapter to the state
25 disbursement unit, as defined by Section 101.0302, Family Code.

26 SECTION 6. The changes in law made by this Act apply to an
27 action or application for compensation under Chapter 103, Civil

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1 Practice and Remedies Code, as amended by this Act, that is pending
2 or commenced on or after the effective date of this Act.

3 SECTION 7. This Act takes effect September 1, 2005.